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In re Application of
CHUNG, Leland W.K., et al.
Application No.: 10/069,586
PCT Application No.: PCT/US00/14482
International Filing Date: 25 May 2000
Priority Date: 28 May 1999
Attorney Docket No.: 9426-023-999
For: OSTEONECTIN BASED TOXIC GENE
THERAPY FOR TREATMENT OF
CALCIFIED TUMORS AND TISSUES

DECISION ON

PETITION

UNDER 37 CFR 1.181

This decision is in response to applicant's "Petition Under 37 C.F.R. §1.181 and §1.10(c)," filed with the United States Patent and Trademark Office on 12 March 2003.

BACKGROUND

On 25 May 2000, applicant filed international application PCT/US00/14482. A Demand for international preliminary examination, in which the United States was elected, was filed on 20 December 2000, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 26 November 2001 (25 November 2001 was a Sunday).

On 27 February 2002, applicant submitted a transmittal letter for entry into the national stage in the United States accompanied by a petition to revive and the basic national fee. The papers were assigned application numbers 10/070,350 and 10/069,586.

On 28 March 2002, the Office mailed Decision On Petition Under 37 CFR 1.137(b) granting applicant's petition in 10/070,350.

On 07 July 2002, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) was required.

On 06 January 2003, the Office mailed Decision On Petition Under 37 CFR 1.137(b) granting applicant's petition in 10/069,586.

On 12 March 2003, applicant filed the instant petition to merge the files and to accept the enclosed response to the Notification of Missing Requirements as a true copy of the 14 November 2002 response.

DISCUSSION

The papers filed on 27 February 2002 should have been considered a single petition under 37 CFR 1.137(b). The papers were processed and assigned two application numbers. The end result for an international application designating the United States of America is a single U.S. national stage application.

Application Number 10/070,350 has been cancelled. All the papers from 10/070,350 have been transferred to the file of application number 10/069,586.

The fees will be transferred to application number 10/069,586 or refunded to deposit account 16-1150, as appropriate.

Response to Notification of Missing Requirements

The petition under 37 CFR 1.10(c) has been treated as a petition under 37 CFR 1.181. A petition under 37 CFR 1.181 to accord a receipt date to paperwork that applicant claims was lost by the Office must be accompanied by (1) a true copy of what applicant claims was originally submitted and (2) proof that the paperwork was submitted on a particular date.


Items (1) and (2) have been satisfied. Applicant indicates that the attached papers are a true copy of the original submission and applicant has supplied a copy of the date stamped post card receipt. The papers are accepted as having a receipt date of 14 November 2002.


CONCLUSION

The Petition Under 37 CFR 1.181 to merge applications 10/070,350 and 10/069,586 is **GRANTED**.

The Petition Under 37 CFR 1.181 to grant a receipt date of 14 November 2002 to the response to the Notification of Missing Requirements is **GRANTED**.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further national stage processing, including refund of the duplicate fees paid with respect to the 10/070,350 application. Applicant should use application number 10/069,586 in all future communications with the Patent and Trademark Office regarding the U.S. National stage of international application PCT/US00/14482.


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